

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on February 1, 2005 at 3:30 P.M., in Room 102 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Rosalie (Rosie) Buzzas, Chairman (D)  
Rep. Carol C. Juneau, Vice Chairman (D)  
Rep. John E. Witt, Vice Chairman (R)  
Rep. Eve Franklin (D)  
Rep. Ray Hawk (R)  
Rep. Cynthia Hiner (D)  
Rep. Joey Jayne (D)  
Rep. Christine Kaufmann (D)  
Rep. Ralph L. Lenhart (D)  
Rep. Walter McNutt (R)  
Rep. John L. Musgrove (D)  
Rep. Rick Ripley (R)  
Rep. Jon C. Sesso (D)  
Rep. John Sinrud (R)  
Rep. Janna Taylor (R)

**Members Excused:** Rep. Verdell Jackson (R)  
Rep. Jack Wells (R)

**Members Absent:** Rep. Tim Callahan (D)  
Rep. Bill E. Glaser (R)  
Rep. Penny Morgan (R)

**Staff Present:** Marcy McLean, Committee Secretary  
Jon Moe, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 232, 1/28/2005; HB 264,  
1/28/2005  
Executive Action: HB 447

**HEARING ON HB 232****Opening Statement by Sponsor:**

**REP. MARK NOENNIG, HD 46, Billings**, opened the hearing on **HB 232**, a bill requiring a pre-sentence report proposing payment of an information technology (IT) charge, which is allowed by law, and to extend the "sunset" from 2005 to 2007. This surcharge is the primary source of funding for the IT in the Montana district courts and courts of limited jurisdiction. This \$10 surcharge applies to any defendant who is convicted of any offense, or to the initiating party in a civil or probate case and each defendant in these cases. In 2004 the surcharge raised \$1.2 million, approximately \$600,000 less than what was anticipated. **{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.2; Comments: Rep. Callahan entered hearing}**

REP. NOENNIG stated that courts of limited jurisdiction are using an IT system called "Full Court," but district courts are on the old DOS system and will ultimately have to be updated and replaced. The purpose of HB 232 is to get all pre-sentence reports to include this surcharge. One of the reasons the surcharge total was below expectations was because judges were neglecting to include the surcharges in their judgements. **{Tape: 1; Side: A; Approx. Time Counter: 4.2 - 5.4; Comments: Rep. Jackson entered hearing}**

**Proponents' Testimony:**

**Jim Oppedahl, Administrator, Montana Supreme Court**, said that this bill is to ensure that the surcharge is applied uniformly and to extend the surcharge for two years. The court system has adopted a strategic plan to bring them into the modern IT world; installation of "Full Court" has been completed, and they are in the process of updating the 15-year-old DOS program in the district courts. They are also starting up a new program that will allow courts of limited jurisdiction to have a central database, so that judges can access current information on defendants. A lot of these updates over the past two years have been done with federal dollars from agencies such as the Federal Motor Carriers Association because the surcharge was inadequate. **{Tape: 1; Side: A; Approx. Time Counter: 5.4 - 8.2; Comments: Rep. Glaser entered hearing}**

The Montana Supreme Court currently does not have a docketing system. Docketing information comes from a Word Perfect 5.1 program, written in 1989, that needs to be updated and modernized. The court IT system needs stable, adequate, long-term funding. Another bill is being drafted that is part of the

Governor's proposal for continuing the IT surcharge, making it permanent, putting the money into the General Fund , and then making a General Fund appropriation.

**Ted Clack, Montana Magistrates Association**, said he represents the judges of limited jurisdiction and asked the Committee to support HB 232.

**Mary Phippen, Montana Association of Clerks of District Court**, said they strongly support HB 232, since the surcharge is the main funding source for IT support in the district courts.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MCNUTT** asked how many district courts still needed to have IT installed. **Jim Oppedahl** answered that all 55 district courts are using the 15-year-old DOS program. If they have adequate funding, they would be able to roll out a state standard product to the Clerk of Courts' offices. **REP. MCNUTT** said he is disturbed that this has been going on for a long time, and now learn that the shortfall is because district court judges have not been imposing the surcharge. He asked if the bill should be amended to have the judges pay the fee if they don't impose it. **Jim Oppedahl** said the shortfall revenue has been caused by several reasons. Most of the surcharge comes through traffic violations, and those fines are not always paid in a timely manner. It is difficult to estimate the amount of revenue derived from the surcharge from year to year.

*{Tape: 1; Side: A; Approx. Time Counter: 8.2 - 14.3}*

**REP. KAUFMANN** asked if the court system has the appropriation authority they need, and if there is another bill to appropriate the money. **Jim Oppedahl** answered that if this bill passes, they will need to put special revenue into HB 2.

**CHAIR BUZZAS** asked for clarification of the other bill that will provide the ongoing source of funding. **Jim Oppedahl** said that the Supreme Court asked for General Fund money for IT this year. This was done because the surcharge has neither been sufficient nor predictable. In the past, they have had to stop the development of IT due to a lack of funding. The general funding will help with the planning process, and when the surcharge is collected, it can be transferred back into the General Fund.

**Closing by Sponsor:** **Rep. Noennig** asked for support of HB 232.

**HEARING ON HB 264****Opening Statement by Sponsor:**

**REP. JEANNE WINDHAM, HD 12, Polson**, opened the hearing on **HB 264**, a bill that would redirect restitution payments to the office of victim services. The Montana Crime Victim Program (CVP) assists innocent victims of crimes with wage loss, mental health, and medical and funeral expenses. The Legislature established the program in 1995 to collect restitution from criminal offenders; the victims receive the benefits. The collected restitution is deposited into the State's General Fund, and the collection rate has improved every year. The State's contribution to this program has remained the same since 2000, yet medical costs have increased substantially, and the program runs out of money every year.

She said that HB 264 would make additional funds available for crime victims by allowing CVP to use funds recovered from the offenders to pay compensation claims. The federal government matches, at 60%, any funds contributed by the State to CVP, however collected restitution deposited into the General Fund is not matched. If CVP were allowed to use collected restitution to directly pay claims, federal funds would match those dollars, significantly increasing funding for the program. Passage of this bill would not place any additional burden on State taxpayers.

***{Tape: 1; Side: A; Approx. Time Counter: 14.3 - 19.6}***

**Proponents' Testimony:**

**Pam Bucy, Assistant Attorney General**, said that their department recognizes that the CVP is operating with a very serious backlog. The Department of Justice collects restitution from offenders in the amount of \$187,000/year, and it is deposited in the State's General Fund; the General Fund then appropriates money to the CVP. This bill puts the restitution collected directly back into the CVP to pay claims, thereby increasing the amount of money that will be matched by the federal government.

**[EXHIBIT](#)** (aph25a01)

**Opponents' Testimony:** None**Questions from Committee Members and Responses:**

**CHAIRMAN BUZZAS** said that the fiscal note shows that \$200,000/year would be transferred from the General Fund into a State Special Revenue Fund.

**REP. JAYNE** asked if the fund is ever depleted and what the benefit is of the special revenue fund. **Pam Bucy** answered that the fund does become depleted and the special revenue fund would boost the CVP funds by \$187,000, plus the 60% federal funds match.

**REPS. GLASER AND JACKSON** asked if an appropriations subcommittee had addressed this and if it is a line item in HB 2. They questioned where the State's budget reflects the lost \$400,000/biennium revenue or the transfer of money. **Jon Moe, Legislative Fiscal Division**, answered that there would be a reduction in revenue of \$200,000/year to the General Fund and an increase in State special fund revenue. **Rep. Windham** said there is a HB 2 line item of \$579,000, which gets 60% matching federal funds. The \$187,000 is restitution payments from offenders, and is deposited directly into the State's General Fund. If they went directly to a special reserve fund for CVP, they would be able to secure the 60% matching federal funds on these dollars.

**REP. JACKSON** asked what happens if HB 264 does not pass. He wondered if the program will continue to receive the \$579,000/year, which added to the \$400,000, would be \$979,000/biennium. **Rep. Windham** referred the questions to Matt Dale, Director of Office of Victim Services. **Matt Dale** explained that the State appropriates \$579,000/year for the CVP, and that money is matched 60% with federal dollars. They collected \$187,000 in 2004 in restitution from offenders, and they are predicting an increase to \$200,000. He said that money is deposited directly into the General Fund, and is not used to compensate crime victims.

*{Tape: 1; Side: A; Approx. Time Counter: 19.6 - 32.6; Comments: end of tape}*

**CHAIR BUZZAS** asked for clarification of the purpose of depositing the \$187,000/year (estimated to increase to \$200,000) in a special reserve fund rather than the General Fund. **Matt Dale** answered that these funds also would receive the 60% matching federal funds, since they would be used to compensate crime victims directly.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.2; Comments: Rep. Wells entered hearing}*

**REP. SINRUD** said that the CVP has authority to spend the \$579,000/year general fund appropriation plus the 60% matching federal funds. He asked what happens if the \$200,000 of offender restitution is moved out of the General Fund and into the Special Reserve Fund, and whether an expenditure need to be shown in HB 2. **Jon Moe** answered that the \$200,000 deposited to the General Fund is appropriated for all sorts of purposes, not just CVP.

Under this bill, it would be deposited directly into the State Special Reserve Fund and there would be no need for an expenditure transfer from the General Fund.

**REP. SINRUD** said this department would need to have the spending authority for the \$579,000/year plus 60% matching federal funds, plus \$200,000/year plus 60% matching federal funds.

**REP. SESSO** asked how much money CVP needs to meet claims. **Matt Dale** answered that their shortfall has been approximately \$200,000. The addition of the \$200,000 restitution money and 60% matching federal funds would make their program and would give them a cushion. He noted that they are concerned about the increase in medical expenses using all of the cushion.

**Closing by Sponsor:**

**REP. WINDHAM** said there needs to be an increase in the funds to compensate innocent crime victims in order to keep pace with the rising costs and claims. HB 264 provides a workable solution and asked the Committee for a "do pass."

***{Tape: 1; Side: B; Approx. Time Counter: 1.2 - 9.6}***

**EXECUTIVE ACTION ON HB 447**

**Motion/Vote:** **REP. KAUFMANN** moved that HB 447 DO PASS. Motion failed 10-10 by roll call vote with REPS. BUZZAS, CALLAHAN, FRANKLIN, HINER, JAYNE, JUNEAU, KAUFMANN, LENHART, MUSGROVE, and SESSO voting aye. REP. MORGAN voted by proxy.

**REP. KAUFMANN** said she followed-up on yesterday's Associated Council of Federal and State Municipal Employees Transportation testimony. She learned that HB 447 is not their negotiated agreement and that they are negotiating separately. The only way it impacts them is in the total appropriation, and the agreement they negotiate will need to fit into that appropriation. They are free to negotiate a dollar amount and are not bound by the terms of the agreement in HB 447.

Under Adopted House Rule H30-50, Procedures, Subsection 5, HB 447 was placed on the Committee of the Whole Agenda for second reading on February 4, 2005.

**ADJOURNMENT**

Adjournment: 4:20 P.M.

REP. ROSALIE (ROSIE) BUZZAS, Chairman

MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

**EXHIBIT ([aph25aad0.PDF](#))**